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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

Michael Griffin,

Petitioner,

v.

Bruce F. Miyake, Assistant U.S. Attorney for  
the District of Washington,

Respondent,

and

Charles A. Daniels, Warden, Federal  
Correctional Institution, Sheridan, Oregon,

Real Party In Interest.

Case No. C05-5626 RBL

Case No. CR04-0034 RBL

ORDER ON PETITION FOR  
WRIT OF HABEAS CORPUS

THIS MATTER comes on before the above-entitled Court upon Defendant's "Petition for Writ of Habeas Corpus."

Having considered the entirety of the records and file herein, the Court finds and rules as follows:

The "petition" defendant has filed attacks the sentence the Court imposed after the defendant was convicted of being a felon in possession of a firearm. As such, the petition is more properly construed as a motion pursuant to 28 U.S.C. § 2255. On May 9, 2005, the defendant filed his first motion pursuant to 28 U.S.C. § 2255 which raised the same issue presented in this motion and which the Court denied on June 22, 2005. The motion now before the Court is thus a second or successive motion for which the defendant has not obtained certification from the Appellate Court to file in this Court. It is therefore

**ORDERED** that the motion is **STRICKEN** because this Court lacks jurisdiction to consider it absent certification from the United States Court of Appeals for the Ninth Circuit; and it is further

**ORDERED** that defendant's motion for appointment of counsel is **DENIED**.

The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing

pro se.

Dated this 23<sup>rd</sup> day of September, 2005.

Ronald B. Leighton  
RONALD B. LEIGHTON  
UNITED STATES DISTRICT JUDGE